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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,985	03/12/2004	Nicholas J. Pappas	97906.00005	6880

7590

11/22/2005

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EXAMINER

ABBOTT, YVONNE RENEE

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/798,985	PAPPAS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yvonne R. Abbott	3644	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/31/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) 3,4 and 20-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7,8,14-16 and 18 is/are rejected.
- 7) ☒ Claim(s) 5,6,9-13,17 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/14/04</u> .                                                             | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species III, claims 1, 2, 5-19 in the reply filed on 8/31/05 is acknowledged. In response to Applicants' arguments regarding Figure 5 being included within the scope of Species III, it is maintained that the fluid container combination is a distinct species as outlined in the previous action, and therefore claims 20 and 21 will not be included in the grouping of Species III.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2,7, 8,14-16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegrist (GB 2215673 A) in view of Dobbs (5,685,445). Siegrist shows a flow control device, comprising: (a) a cap member (13) having double threads defined on its inner surface, (b) an overcap (1) movably mounted with respect to said cap member, said overcap defining a central opening and including at least one tooth defined on an inner surface thereof, and (c) a ball (11) positioned within said overcap, said ball being sized to obstruct fluid passage through said central opening; wherein a variable flow clearance may be established by movement of said overcap relative to

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said cap member; wherein the movement is effected in part by rotational motion of the overcap relative to the cap member. Siegrist, however, show that the cap and overcap are engaged via rib and groove (14,15), and does not specifically disclose that said cap member includes a plurality of circumferentially spaced ratchet teeth defined on an inner surface thereof; said at least one tooth being positioned so as to engage said ratchet teeth as said overcap is mounted relative to said cap member. Dobbs teaches a removable closure having a cap having a plurality of circumferentially spaced ratchet teeth (16, 17) having tapered geometry and which are engaged by teeth (26) formed on the inner surface of overcap (24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the ratcheted closure mechanism taught by Dobbs on the Siegrist closure in order to provide a tamper proof sealing mechanism and prevent inadvertent removal of the closure/top. With respect to claim 2, to provide that the angular distance between the ratchet teeth and the inner surface of the cap is  $270^\circ$  would have been obvious as taught by Dobbs depending upon the torque one wishes to require in order to allow removal of the closure.

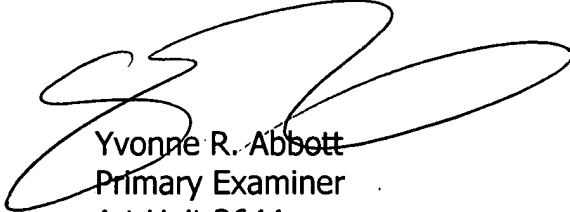
***Allowable Subject Matter***

4. Claims 5, 6, 9-13, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Monday-Thursday 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
Primary Examiner  
Art Unit 3644